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CONCORD, N.H.

Mr. James J. Barry, Commissioner
Welfare Department
State House Annex
Concord, New Hampshire

Dear Mr. Barry:

Under date of July 16th, you requested the opinion of this office as to whether a person can lose his citizenship rights as a result of a conviction and imprisonment for a crime of "attempted manslaughter in the first degree".

Pt. 1, Art. 11 of the New Hampshire Constitution provides:

" . . . that no person shall have the right to vote, or be eligible to office under the constitution of this state who shall have been convicted of treason, bribery, or any wilful violation of the election laws of this state, or of the United States; . . ."

That provision in our Constitution which withholds the privilege of voting for certain crimes, of course, would deprive a person of certain commitments of citizenship. RSA 586 provides that a person adjudged guilty of treason shall not have the right to vote or be eligible to office under the Constitution of this State.

Incidents of citizenship may be lost if the aforementioned crimes are committed. The remainder of our law on this subject matter is silent and therefore the answer to your question is in the negative.

Question 2 asks whether a person would meet the citizenship requirement for aid to permanently and totally disabled as provided in RSA 167:6(f) if imprisoned for the aforementioned crime.

C O P Y

Mr. James J. Barry

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In the particular factual matter that you are concerned with the provisions of RSA 54:10 would appear to be applicable, wherein it states:

"A residence acquired by any person in any town shall not be interrupted or lost by a temporary absence therefrom, with the intention of returning thereto as his home. No person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of the United States or of the high seas, nor while a teacher in or student of any seminary of learning, nor while confined in any public prison or other penal institution."
[emphasis added]

In view of the foregoing if the factual situation is such that your applicant otherwise qualifies he has not lost his citizenship in this State as a result of the prison incarceration.

Sincerely yours,

William J. Deachman
Assistant Attorney General

WJD/lt